

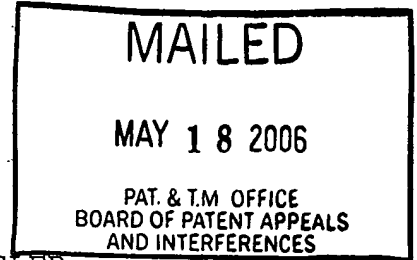
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte BRIAN ROUNDTREE and CRAIG G. EISLER

Application 09/783,608

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER



This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on April 8, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

A review of the file indicates that on September 22, 2005, appellants filed an Appeal Brief under the rules set forth in 37 CFR § 41.37(c). However, the Appeal Brief filed on September 22, 2005, does not fully comply with the new rules under 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(c) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(I) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(I) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(iv) **Status of Amendments.** A statement of the status of any amendment filed subsequent to final rejection, i.e., whether or not the amendment has been acted upon by the examiner, and if so whether it was entered, denied entry, or entered in part. This statement should be of the status of the amendment as understood by the appellant.

(v) **Summary of claimed subject matter.** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each claim involved in the appeal, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(xi) **Related Proceeding Appendix.** Copies of any decisions rendered by a court or the Board in any proceeding identified by the examiner in the "Related Appeals and Interferences" section of the answer.

An in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief filed September 22, 2005:

1. "Status of Amendments," as set forth in 37 CFR § 41.37(c)(1)(iv);
2. "Related Proceeding Appendix," as set forth in 37 CFR § 41.37(c)(1)(x).

Also the brief filed on September 22, 2005, is defective because "Summary of Claimed Subject Matter" does not map the independent claim(s) to the specification as required by 37 CFR § 41.37(c)(1)(v).

It is required that a substitute Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c). For more information on the Board's new rules, please see the web page entitled "More Information on the Rules of Practice Before the BPAI," Final Rule at:

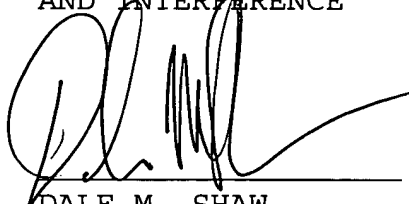
<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

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Accordingly, it is ORDERED that the application is return to the Examiner to:

- 1) hold the Appeal Brief filed on September 22, 2005, defective;
- 2) to notify appellants to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCE

A handwritten signature in black ink, appearing to read 'DMS', with a long horizontal flourish extending to the right.

DALE M. SHAW

Deputy Chief Appeal Administrator
(571) 272-9797

DMS/pgc

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